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RUEAIIA/CIA WASHINGTON DC PRIORITY

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RHEHNSC/NSC WASHINGTON DC PRIORITY

RUFOADA/JAC MOLESWORTH RAF MOLESWORTH UK PRIORITY

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C O N F I D E N T I A L SECTION 01 OF 03 ABUJA 000322

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SUBJECT: THE ELECTORAL PLAYING FIELD TILTS NOTICEABLY

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Classified By: Political Counselor Russell J. Hanks for Reason 1.4 (B and d)

¶11. (C) Summary: With less than two months to go before elections in Nigeria, the ordinary logistical and managerial confusion which has characterized previous elections is giving way to what appears to be political exclusion. Recent coordinated actions by several key government agencies and a specially constituted government administrative panel have led to the apparent disqualification of Vice President Atiku Abubakar and 89 other candidates. The Economic and Financial Crimes Commission (EFCC) and the Independent National Elections Commission (INEC) have both played a prominent role in the exercise. The Vice-President previously won court challenges to the legality of this process, which the government also used in its attempt to indict him and declare his office vacant. Although further legal challenges are likely, time is running out before elections and INEC does not have to publicize its final candidate list for another month. End summary.

ROLE OF GOVERNMENT AGENCIES: THE EFCC AND ITS LISTS

¶12. (U) With less than two months to go before elections in Nigeria, the ordinary logistical and managerial confusion that has characterized previous elections is giving way to what appears to be political exclusion. The latest EFCC list of allegedly corrupt politicians was at variance with earlier pronouncements by the agency. For example, the Chief Executive of the EFCC, Nuhu Ribadu, stated at a Senate hearing in late 2006 that 31 sitting governors were guilty of corruption. These included Goodluck Jonathan of Bayelsa state, Ahmed Sani of Zamfara State, Chimaroke Nnamani of Enugu State, Peter Odili of Rivers state and Gbenga Daniel of Ogun state. There have been no indictments or prosecutions since the EFCC announcement.

¶13. (U) The EFCC officially unveiled a new list of "corrupt politicians" on February 5. It included the names of 135 people aspiring for elected office. Peoples Democratic Party (PDP) aspirants were on the list but the majority named were opposition party candidates. Vice President Atiku Abubakar's name was first on the list, and a number of PDP candidates previously named by Ribadu before the Senate were conspicuous by their absence. Among those missing from the

updated list are Governors Jonathan (Bayelsa), Ahmed Sani (Zamfara), Peter Odili (Rivers) and Gbenga Daniel (Ogun).

¶4. (U) The EFCC indicated in the cover note forwarding the list to the political parties that it was only advisory and intended to assist the internal party review process. The letter went on to say that the "list was proposed in the hope that it will save your party of the untidy decision of having to, belatedly, file candidates midstream in the event of unexpected disqualification." According to the 1999 Nigerian constitution, only a court of law, judicial or administrative panel of inquiry can disqualify candidates.

GOVERNMENT NAMES PANEL OF INQUIRY

¶5. (U) Shortly after the release of the EFCC list, the Federal Government formed an Administrative Panel of Inquiry composed of the president's aides and senior civil servants to investigate the "indicted politicians." The Administrative Panel was headed by a law professor and Permanent Secretary at the Justice Ministry, Professor Ignatius Ayua. The Panel sat for only three days (10) 12 February) and submitted its report on February 13th. It is not clear how many people on the EFCC list appeared before the Panel, but media reports indicate that the vast majority of the people on the list refused to appear before the body.

¶6. (U) The Panel quickly submitted its report essentially confirming the EFCC list, although reportedly with some notable exceptions. The Panel's report named 90 "corrupt politicians." It was forwarded to the Federal government, which in turn, accepted the report. This process, the Nigerian government argues, fulfills the Constitutional provision regarding the disqualification of any candidates on the EFCC list.

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¶7. (U) Late last year, Atiku won a court challenge regarding the process and outcome of a similarly constituted administrative panel which indicted him for his alleged role in the PTDF saga. The government then had used the administrative panel "indictment" to declare Atiku ineligible to contest for the presidency.

REACTION TO THE EFCC LIST

¶8. (U) There have been a series of reactions to the EFCC Advisory list ranging from condemnations to litigation. Vice President Atiku Abubakar, who topped the list, instructed his lawyers to sue EFCC Chairman Nuhu Ribadu in both his personal and official capacities. Lagos Governor Bola Tinubu, Anambra AC governorship candidate Chris NgigeQand two Anambra lawmakers have sued the EFCC for including their names on the list. One of the Anambra lawmakers was subsequently "cleared" by the EFCC.

¶9. (U) The Action Congress issued a statement directing all its candidates to "disregard the EFCC list and shun the Administrative Panel of Inquiry." Former Finance Minister, Adamu Ciroma, an Obasanjo supporter whose wife is Minister of Women's Affairs, was quoted as saying that neither the EFCC nor INEC has powers to screen and disqualify candidates.

¶10. (U) Senate President Ken Nnamani on February 15 sounded a note of caution to EFCC,s Nuhu Ribadu, who led a delegation of the ECOWAS Intergovernmental Action Group against Money Laundering in Africa to the Senate. Senator Nnamani cautioned Ribadu against "actions that could jeopardize the credibility of EFCC." "Corruption has impacted negatively on the economy. It will be disastrous if anything is done to destroy the credibility of the EFCC," he was quoted as saying.

¶11. (U) General Muhammadu Buhari has linked the list to the overall strategy of the Obasanjo government to rig the elections. General Buhari,s party, the ANPP questioned the

rationale for the inclusion of some of its candidates who had never been public officials. For instance, the name of Chief Olanrewaju Tejuosho, an ANPP candidate who survived an assassination attempt and is contesting the same senatorial seat as President Obasanjo's daughter, Iyabo Obasanjo-Bello, made the list even though he has never held public office.

THE ROLE OF INEC, PLUS A STRANGE COURT CASE

¶12. (U) INEC has taken a leading role in declaring that candidates named by the panel of inquiry are effectively disqualified. Speaking at a national forum on elections in Abuja on February 15, INEC Chairman Maurice Iwu warned that political parties that failed to substitute disqualified candidates would suffer the consequences. "We have said repeatedly that any party that fails to meet the deadline for substitution of disqualified candidates should be ready to forfeit its seats because we shall not re-open the chapter, no matter who is involved."

¶13. (C) While publicly INEC has indicated that it will enforce a ban on indicted candidates, internally there appear to be deep divisions on the issue, most importantly involving the candidacy of Atiku. On February 14, the EFCC arrested three INEC Commissioners on corruption charges. Embassy contacts and media reports indicate that the actual reason for the arrest of the Commissioners was their belief that INEC lacked the power to disqualify Atiku. The arrested Commissioners, including the Commissioner responsible for Legal Services Mohammed Abubakar, allegedly insisted at a meeting with the INEC chairman that INEC had no legal backing to disqualify Atiku from contesting elections. Abubakar told PolCouns that he had "refused to sign the disqualifications under pressure from Iwu." Atiku's court challenge is due for hearing on February 20, which is also the deadline for parties to substitute presidential candidate's names to INEC.

¶14. (U) Another case making its way through the courts is an attempt to disqualify General Buhari, the ANPP presidential candidate. An obscure lawyer has petitioned the Abuja High Court asking for an order of mandamus, compelling the federal government to prosecute the retired general over the 1983 coup. Although the case may have been filed primarily for publicity, the federal government did not object to this request by the applicant, an indication that

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there was some level of accordance.

COMMENT

¶15. (C) The Nigerian government's aggressive attempt to ban a large number of candidates, most of whom are visibly ill-at-ease with the PDP's presidential ticket, at the last minute appears to be part of a worrying trend. The resulting conclusion is that with eight weeks to the election, these latest actions, combined with INEC's disorganization, are clear indicators that Nigeria's electoral playing field is now alarmingly far from level.

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